

HIPAA CHALLENGES IN ACADEMIC MEDICAL CENTERS



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Academic Medical Centers

A decorative graphic consisting of a horizontal bar with a color gradient from dark blue on the left to bright yellow on the right. To the right of the bar is a large, stylized arrow pointing to the right, filled with a brown-to-orange gradient.

- Organizational Complexities
- Organized Health Care Arrangements
- Educational Training Issues
- Financial Burdens

Organizational Complexities



AMC structures are broad and varied

- Multiple Entities involved in PHI flow
- Unique Entity Relationships and Operations
- Often No Common Ownership or Control
- Private and Public Entities
- Diverse Missions Produce Multi-faceted Uses and Flows of PHI (educational, research, health care)

Organizational Complexities

(cont)



- Common Industry Approaches are Difficult to Identify =====> Limited Industry Guidance on Application
- Areas for regulatory clarification proliferate
- Consensus and best practices are very costly and time consuming to achieve

Organized Health Care Arrangements (OHCAs)

- Sole option where no common ownership/control
- Many disagree on whether an OHCA arises by designation or operation of law
- What liability might arise from an OHCA?
 - Concern that fictional legal arrangement may invite other joint liability arguments
 - Public institutions are not free to offer indemnification to private entities
 - Concern over liability chills relationships and complicates compliance efforts ==> increased costs

Educational Training Issues



- Education of health professionals requires clinical practice experience
- Schools without clinical facilities for training practicums must affiliate with health care facilities
- How does HIPAA apply to these affiliations?

Educational Training Issues

(cont.)



Example - Allied Health Professionals:

- School educates nutritionist
- Affiliation with hospital for training site
- Whose “trainee” (i.e. workforce) is the student?
- Training sites have been seeking BA agreements
- School is not performing service “on behalf of” hospital
- Whose training obligation should it be?
- What should the training obligation be?

Educational Training Issues

(cont.)



Other Practical Issues

- Liability concerns may cause training site to seek to avoid “workforce” designation
- Increased compliance responsibilities may discourage health care facilities from training participation
- Administrative duplication where trainees rotate through multiple training sites
- Duplicative or extensive training activities may detract from program quality

Financial Burdens

- Charitable institutions have limited resources
- HIPAA costs are significant
 - Additional FTEs
 - Internal Committees and Subcommittees
 - External Committees with Affiliated Entities
 - Consultant Fees/Outside Counsel
 - Systems Upgrades (EDI, data tracking, training)
 - Increased time negotiating with third parties
- Compliance costs are easier to absorb over longer period of time

Conclusion



Questions?